



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Jon Sanabria
Acting Director of Planning

May 7, 2009

Aaron Clark
Armbruster, Goldsmith, & Delvac, LLP
10940 Wilshire Blvd., Ste. 2100
Los Angeles, CA 90024

Dear Applicant:

**SUBJECT: PROJECT NUMBER 01-198-(1)
CONDITIONAL USE PERMIT CASE NUMBER 01-198-(1)**

This letter is to inform you that on May 6, 2009, the Regional Planning Commission found that the second time extension for the above-referenced case, a conditional use permit to construct an industrial park, located at the 2300 block of Peck Road, in the Workman Mill Zoned District, in the MPD (Manufacturing Planned Development) zone, was erroneously granted.

The permit was originally approved on November 30, 2005 by the Commission. The Hearing Officer granted the first time extension for the permit on November 6, 2007, which extended the period in which the permittee had to use the permit from November 30, 2007, to November 30, 2008. The second time extension was granted by the Hearing Officer on December 12, 2008. The action extended the expiration date of the above permit from November 30, 2008, to November 30, 2009. However, Section 22.56.140 of the County Code states that only a single one-year extension to the expiration date of any project may be considered. The matter of the second time extension was brought before the Hearing Officer for reconsideration on March 26, 2009. The Hearing Officer referred the matter to the Commission for consideration.

The Commission heard testimony from the permittee's representatives regarding, among other issues, the construction and development that has been completed on the site to date and the permittee's reliance on the second extension. The Commission also heard testimony from concerned neighbors in opposition to the project. After hearing such testimony, the Commission determined that an equitable solution was appropriate based on the situation and granted the permittee a period of 60 calendar days from the effective date of this action in which to make use of the permit. Unless the permittee uses the permit within the specified time, the permit will expire for nonuse at the end of the 60 calendar day period.

The following activities by the permittee shall constitute use of the conditional use permit (CUP 01-198-[1]):

1. Reprocess finished building pads and retaining wall footing;
2. Layout of catch basin and 30 feet of storm drain line;
3. Excavate storm drain catch basin and storm drain piping;
4. Install sand bedding and storm drain piping for inspection by the County;
5. Tie-into existing Los Angeles County storm drain for inspection by the County.

In addition, the Commission directed the permittee to work closely with the Department of Regional Planning and the Pellisier Village Association in order to keep the community informed of the development activities on the site and to address community concerns regarding health, safety, and quality of life concerns that may occur during construction.

The applicant or any other interested person may appeal the Regional Planning Commission's decision to the Board of Supervisors through the office of Sachi A. Hamai, Executive Officer, Room 383, Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012. Please contact the Executive Office for the amount of the appeal fee at (213) 974-1426. **The appeal period for this project will end at 5:00 p.m. on May 20, 2009.** Any appeal must be delivered in person to the Executive Office by this time. If no appeal is filed during the specified period, the Regional Planning Commission action is final.

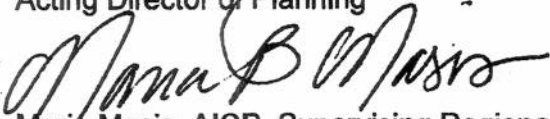
If you have any additional questions regarding this case please contact the case planner, Tyler Montgomery, at (213) 974-6435. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. Our offices are closed on Fridays.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING

Jon Sanabria

Acting Director of Planning

A handwritten signature in black ink, appearing to read "Maria Masis", is written over the typed name.

Maria Masis, AICP, Supervising Regional Planner
Zoning Permits II Section



COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 881-2461

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

August 28, 2009

Department of Regional Planning
150 Hall of Records
320 W. Temple Street
Los Angeles, CA 90012

Attention: Ms. Maria Masis
Regarding: CUP 01-198

Patricia,

In response to your request for information pertaining to Conditional Use Permit 01-198 the Los Angeles County Fire Department staff has compiled the following for your information.

As you know, the project was approved prior to the adoption of Regulation 27, which became effective on June 2, 2006. Upon review of the project in light of Regulation 27, the Fire Department has no opposition to the development of the project in conformance with the existing approved conditional use permit. Upon review of the existing conditions of approval as implemented per the Los Angeles County Fire Code Section 102.8 along with subsequent implementation of Regulation 27 of the Los Angeles County Fire Department, the project as conditioned meets fire and life safety requirements. It is not the intent of Los Angeles County Fire Department to make changes to the entitlements of this conditional use permit as currently stated.

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

AGOURA HILLS
ARTESIA
AZUSA
BALDWIN PARK
BELL
BELL GARDENS
BELLFLOWER

BRADBURY
CALABASAS
CARSON
CERRITOS
CLAREMONT
GARDENA
GLENDORA
COMMERCE
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CUDAHY
DIAMOND BAR
DUARTE
EL MONTE
GARDENA
GLANDORA
HAWAIIAN GARDENS

HAWTHORNE
HIDDEN HILLS
HUNTINGTON PARK
INDUSTRY
INGLEWOOD
IRWINDALE
LA CANADA FLINTRIDGE

LA HABRA
LA MIRADA
LA PUENTE
LAKEWOOD
LANCASTER
LAWDALE
LOMITA

LYNWOOD
MALIBU
MAYWOOD
NORWALK
PALMDALE
PALOS VERDES ESTATES
PARAMOUNT

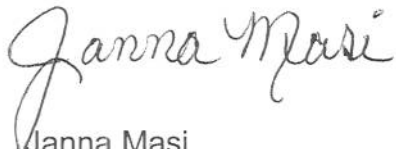
PICO RIVERA
POMONA
RANCHO PALOS VERDES
ROLLING HILLS
ROLLING HILLS ESTATES
ROSEMead
SAN DIMAS
SANTA CLARITA

SIGNAL HILL
SOUTH EL MONTE
SOUTH GATE
TEMPLE CITY
WALNUT
WEST HOLLYWOOD
WESTLAKE VILLAGE
WHITTIER

Ms. Maria Masis
August 28, 2009
Page 2

If your office has further questions pertaining to this permit please contact me at your earliest convenience.

Respectfully,

A handwritten signature in cursive script that reads "Janna Masi". The signature is written in dark ink and is positioned above the printed contact information.

Janna Masi
Los Angeles County Fire Department
Land Development Unit
5823 Rickenbacker Road
Commerce, Ca 90040
323-890-4243

Date MAY 19, 2009

Mr. Don Ashton
Deputy Executive Officer
Los Angeles County Board of Supervisors
Room 383, Kenneth Hahn
Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Mr. Ashton:

Subject: CUP 01-198-(1)

Use: WORKMAN MILL TO AUTHORIZE THE

CONSTRUCTION, OPERATION AND MAINTENANCE OF INDUSTRIAL PARK,

Address 2300 BLOCK OF S. PECK ROAD

WORKMAN MILL Zoned District

Related zoning matters:

Tract or Parcel Map No. N/A

Change of Zone Case No. N/A

Other _____

This is a notice of appeal from the decision of the Regional Planning Commission on:
(Check One)

☐ The Denial of this request

☒ The Approval of this request

☐ The following conditions of the approval:

_____, _____, _____, _____, _____, _____, _____

Briefly, the reason for this appeal is as follows:

THIS IS TO APPEAL THE GRANTING OF A SECOND ONE
YEAR EXTENSION IN VIOLATION OF LOS ANGELES
COUNTY CODE 22.56.140, THE REGIONAL
PLANNING COMMISSION MADE THEIR ORDER WITH OUT,
OR IN EXCESS OF, JURISDICTION, WE ALSO BELIEVE
THAT THEIR DECISION WAS INFLUENCED BY
EXTRANEOUS CONSIDERATIONS,
(ATTACHED LIST OF RESIDENTS OPPOSING)

Enclosed is a check (or money order) in the total amount of \$ _____.
The amount of \$1,548.00 for applicants or \$775.00 for non-applicants is to cover the
Regional Planning Department's processing fee.


(Signed) Appellant

CARL H. REUBEN FOR RESIDENTS
Print Name

2259 KELLA AVENUE
Address

WHITTIER, CALIFORNIA 90601

562-692-4334

Day Time Telephone Number

May 14, 2009

Los Angeles County Board Of Supervisors
c/o Sachi A. Hamai, Executive Officer
500 W. Temple Street Room 383
Los Angeles, California 90012

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

Dear Supervisors:

We, the residents of Pellissier Village Equestrian District, wish to appeal the May 6, 2009, decision of the Regional Planning Commission on CUP 01-198-(1). Their decision to allow the continuation of a second year extension is a clear violation of Los Angeles County Code 22.56.140 and final condition 6. The county code is explicitly clear with respect to a second one year extension and does not allow for any discretion with respect to it. The Regional Planning Commission made their order without, or in excess of, jurisdiction. We also believe that their decision was influenced by extraneous considerations.

The initial studies were completed on August 2001. A Mitigated Negative Declaration was prepared for this project. The following potential impacts were identified: geotechnical hazards, flood hazards, noise, water quality, traffic/access and utilities.

The residents have been harmed in the following manner. The studies are eight years old and now far out of date. Had the Planning Commission complied with the Los Angeles County Code the developer would have had to reapply for a conditional use permit. In which case California Environmental Quality Act (CEQA)(Public Resources Code Section 21000 et. seq.) would have had to be revisited and current studies and/or mitigating factors considered. There have been new requirements passed, to protect the residents, that the developer would have to meet if required to request a new CUP as the county code calls for. The actions of the Planning Commission have denied these protections of health and safety to the community.

NAME	ADDRESS
<u>Art Negro</u>	<u>2209 MARDEL AVE</u>
<u>Stella Choyaria</u>	<u>2209 MARDEL AVE</u>
<u>Carl H. Ruch</u>	<u>2259 KELLA AVE.</u>

SIGNATURE PAGE

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

We the undersigned have read the request for appeal to the board of supervisors, dated May 14, 2009, from the Regional Planning Commission's decision on CUP 01-198-(1) and place our signature in agreement.

NAME	ADDRESS
SUA C. ZAVALA	41312 KATHLEEN
OLIVIA ZAVALA	41312 KATHLEEN
CORIOS CHAVEZ	2322 KAYDEL RD
ALBA CHAVEZ	2322 KAYDEL RD
José J Flores	2316 Kaydel Rd
Rosa Cornejo	2316 Kaydel Rd.
Jennifer Torres	2310 Kaydel Rd.
MARIA CORONEL	2290 KAYDEL RD
Maria Coronel	2290 KAYDEL RD
CARLOS CORONEL	2290 KAYDEL RD
Armando Abeday	2278 Kaydel Rd
Bertha Abeday	2278 Kaydel Rd
RAMONA ESPINDA	2209 MARDEL RD
Jan Moreno	2268 KayDEL RD
Rosalie McKeber	2258 Kaydel Rd
Sam Hurtado	2262 Kaydel Rd
Celia Hurtado	2262 Kaydel Rd.
RUBEN HURTADO	2337 KATHA

SIGNATURE PAGE

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

We the undersigned have read the request for appeal to the board of supervisors, dated May 14, 2009, from the Regional Planning Commission's decision on CUP 01-198-(1) and place our signature in agreement.

NAME	ADDRESS
Laura N. Torres	12505 PELISSIER RD WHITTIER CA
Enrique Moreno	SAME
Eduardo Vega	12454 FAMOSA ST WHITTIER CA.
Aldo Vega	SAME
Don J. [Signature]	12444 FAMOSA ST. WHITTIER
Ruby Z. [Signature]	12444 FAMOSA ST. WHITTIER, CA
NOE CATANEO	1936 BURNETT RD. S. EL MONTE CA, 91733
Ariana Rodriguez	2202 Kaydel Rd Whittier CA 90601
Ramiro [Signature]	12432 FAMOSA ST
Robert Valenzuela	12432 FAMOSA ST
Vette Hernandez	12432 FAMOSA ST
PATRICIA ANAYA	12417 PELISSIER RD
ERNESTO ANAYA	12417 PELISSIER RD
MARCIAL ANAYA	12417 PELISSIER RD
ENRIQUE RODRIGUEZ	2202 KAYDEL RD
Angelina D Rodriguez	2202 KAYDEL RD
Jose Garcia	2247 Kaydel Rd
Ruth Garcia	2247 Kaydel Rd

SIGNATURE PAGE

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

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NAME	ADDRESS
JORGE CARLOS GUNZABES	2247 KAYDEL
FENEDINA LOPEZ	2247 KAYDEL
Juan Valdez	2244 Kaydel Rd
Rosa Ortiz	2244 Kaydel Rd
Marianne Valdez	2244 Kaydel Rd
Christie Zuniga	2244 Kaydel Rd
David Zuniga	2244 Kaydel Rd
Jane Siegelhofer	2234 Kaydel Rd
Robert Siegelhofer	2234 Kaydel Rd
Ernest Correa	2226 Kaydel Rd
Gabriela Rivera	2219 Kaydel Rd.
Rene Perez	2219 Kaydel Rd.
MARIA ANGELO	2225 Kaydel Rd.
RAMPON ANGEL	2225 Kaydel
Leonard Pinkett	2229 Kaydel
JUANITA PINKETT	2229 KAYDEL
Art Delgado Sr	2235 Kaydel
Arturo Delgado Sr	2235 Kaydel

SIGNATURE PAGE

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

We the undersigned have read the request for appeal to the board of supervisors, dated May 14, 2009, from the Regional Planning Commission's decision on CUP 01-198-(1) and place our signature in agreement.

NAME	ADDRESS
Oliverio Parra	2258 Mardel Ave
Emilia Parra	2258 Mardel Ave
Adessa Romero	2257 Mardel Ave
Paul Salcido	2269 Mardel
Paul D Salcido	2269 Mardel
Jenniter Salcido	2269 Mardel
Katherine Salcido	2269 Mardel
George Magdalena	2311 Kaydel Rd
Nicole Garcia	2317 Kaydel Rd
James G. Smith	2317 Kaydel Rd
Kathy Garcia	2317 Kaydel Rd
Pedro A Carrillo	2338 Kaydel Rd
MARIO PEREZ, LPPS	2323 Kaydel Rd
Gustavo Rodriguez	2335 Kaydel Rd
John Covarrubias	2341 Kaydel Rd
JESUS CASTANEDA	2347 Kaydel Rd
Jesenia Flores	2348 Kaydel Rd
Jessica Perez	2344 Kaydel Rd. Whittier ca.

SIGNATURE PAGE

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

We the undersigned have read the request for appeal to the board of supervisors, dated May 14, 2009, from the Regional Planning Commission's decision on CUP 01-198-(1) and place our signature in agreement.

NAME	ADDRESS
JORGE SANCHEZ	2321 Kella ave Whittier 90601
Edward J. Ramirez	2247 Kella Av. Whittier 90601
Sylvia M. Rodriguez	2247 Kella Ave. Whittier 90601
JOSE ACOSTA	2215 MARDEL AVE
VANESSA ACOSTA	2215 MARDEL AVE
Necenia Castaneda	2221 mardel Ave.
Imelda Castaneda	2221 mardel Ave.
Danny Castaneda	2221 mardel Ave.
Edgar Castaneda	2221 mardel Ave.
Jasmine Lopez	2224 mardel Ave.
MANUEL CARRILLO	3230 mardel ave whittier calif
GERARDO CARRILLO	2250 MARDEL AVE
ROSA CARRILLO	2250 MARDEL AVE
ALFRED I. OLAVE	2237 MARDEL AVE
LEONOR OLAVE	2237 MARDEL AVE.
James W. Buck	2250 MARDEL AVE
Ernie Parra	2258 mardel Ave
Letty Parra	2258 mardel Ave

SIGNATURE PAGE

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

We the undersigned have read the request for appeal to the board of supervisors, dated May 14, 2009, from the Regional Planning Commission's decision on CUP 01-198-(1) and place our signature in agreement.

NAME	ADDRESS
Ramiro Arras III	2225 Mardel Ave
Ramiro Arras	2225 Mardel Ave
Mwling	"2225 Mardel Ave
HELENA ARRAS	2225 MARDREL AVE.
Juan Rodriguez	2241 MARDREL AVE
Ezequiel M Lopez	2241 Mardel ave.
Ayde Soto	2208 Mardel Av.
Jose M. Rodarte	2208 Mardel Av.
David Cravy	2208 Kaydel Rd
Darrell Cravy	2208 Kaydel Rd
Patricia Cravy	2208 Kaydel Rd
Lindsey Cravy	2208 Kaydel Rd
Charles Lopez	12454 S. ADEL RD ST.
Manuel Hernandez	2203 Kaydel Rd
Sullivan Smith	2203 Kaydel. Rd.
Jennifer Martinez	12435 PELLISSIER
Joan Maria Lopez	12435 PELLISSIER
M: Dolores Lopez	12435 PELLISSIER

SIGNATURE PAGE

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

We the undersigned have read the request for appeal to the board of supervisors, dated May 14, 2009, from the Regional Planning Commission's decision on CUP 01-198-(1) and place our signature in agreement.

NAME _____

ADDRESS

PAMELA BUSCA

2269 KAYDEL RD WHITTIER

EARL YOUNG

2269 KAYDEL RD WHITTIER

SHERRY ROBERTS

2214 KAYDEL RD WHITTIER

KAREN SKAU

2263 Kella Ave Whittier

John BustAMANTE

2263 KELLA AVE WHITTIER

Cynthia L. Reuch

2259 KELLIA AVE.

Edward T. Saur

2269 Kiella Ave.

doi:10.1017/S0022292412001619

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Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Jon Sanabria
Acting Director of Planning

April 23, 2009

TO: Leslie G. Bellamy, Chair
Wayne Rew, Vice Chair
Esther L. Valadez, Commissioner
Pat Modugno, Commissioner
Harold V. Helsley, Commissioner

FROM: Tyler Montgomery *TM*
Regional Planning Assistant II
Zoning Permits II Section

SUBJECT: PROJECT NO. 01-198-(1)
CONDITIONAL USE PERMIT CASE NO. 01-198-(1)
May 6, 2009 Item for Discussion & Possible Action
Agenda Item No. 7

The above referenced case, Conditional Use Permit 01-198 to authorize the construction and operation of an industrial park located at the 2300 block of Peck Road, in the Workman Mill Zoned District, in the MPD zone, was approved on November 30, 2005 by the Regional Planning Commission.

The applicant, Charles Dunn Equities, LLC, filed a request for a time extension in September 2007, as the grant authorized by this approval would have terminated if not used by November 30, 2007. The time extension was granted on November 6, 2007. The time extension was approved from November 30, 2007 to November 30, 2008.

On October 29, 2008, the applicant applied for a second one-year time extension: from November 30, 2008 to November 30, 2009 as outstanding documentation from the Department of Water and Power was preventing the project from vesting. The second time extension was approved by the Hearing Officer on December 12, 2008.

Upon review of County Code section 22.56.140, and in consultation with county counsel, staff has concluded that the second time extension for this project should not have been granted. This section of the County Code states that "in all cases the hearing officer may extend (the expiration date) for a period of not to exceed one year, provided an application requesting such extension is filed prior to such expiration date." Therefore, the Code limits extensions of the expiration date of a CUP to one, one-year time period.

The matter of this second time extension was brought before the Hearing Officer on March 26, 2009. The Hearing Officer referred this matter to the Regional Planning Commission for consideration.

The permittee was granted a grading permit by the Department of Public Works after the approval of the original one-year time extension, and work was commenced by the applicant. However, it was eventually determined that the grading permit had been issued in error, as the permittee had not obtained all necessary approvals from the Los Angeles Department of Water and Power as required in the CUP conditions of approval, which holds an easement on which some of the grading had taken place. A stop-work order was issued by Public Works and is currently in effect.

Staff recommends that the Regional Planning Commission find that the second time extension was erroneously granted. However, in order to balance the equities of the situation, Staff recommends that the Commission allow the permittee a reasonable period of time, such as 45 days, in which to use the CUP prior to the permit expiring for nonuse pursuant to Section 22.56.140 of the County Code and Condition No. 6 of the CUP.

04/23/09

MM:TM



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Jon Sanabria
Acting Director of Planning

April 30, 2009

TO: Leslie G. Bellamy, Chair
Wayne Rew, Vice Chair
Esther L. Valadez, Commissioner
Harold V. Helsley, Commissioner
Pat Modugno, Commissioner

FROM: Tyler Montgomery *TM*
Regional Planning Assistant II
Zoning Permits II Section

SUBJECT: **PROJECT NO. 01-198-(1)**
CONDITIONAL USE PERMIT CASE NO. 01-198-(1)
May 6, 2009 Discussion & Possible Action
Agenda Item No. 7

Since the previous memo of April 23, 2009, staff has received three (3) additional letters regarding the above project. The first is a letter from opponents of the above project stating their reasons for opposing any further extension of the project's term of use. The second is a letter from the Los Angeles Department of Water and Power (DWP) granting conditional permission for development of the above project within its right-of-way and delineating the terms of the grant. The third is a letter from the applicant's attorney, R.J. Comer, stating the applicant's legal reasoning for being allowed to continue development of the above project.

Enclosures:

Letter of opposition from area residents, dated 3/24/09
Letter of conditional permission from DWP, dated 12/31/08
Letter from applicant's attorney, R.J. Comer, dated 4/29/09

04/30/09
MM:TM

CUP 01-198-(1) FOURTH YEAR EXTENSION ILLEGAL

March 24, 2009

CUP 01-198-(1) has expired by law. The Los Angeles County Code, 22.56.140 Expiration date of unused permits, allows two years with a one year extension for a maximum of three years to complete. The permit was granted 11/30/2005 taking it to 11/30/2007. Three years would have been 11/30/2009 to complete. The developer is neither a nonprofit organization or a public agency therefore any granting of a fourth year extension would be a violation by the County of Los Angeles code based on the above referenced code section. If the developer wishes to continue they need to reapply for a new cup when allowed. Due to the excessive time passed all of the required studies are out of date. If this fourth year extension is not rescinded Regional Planning and the County of Los Angeles, with full and absolute knowledge of the fact they are in violation of the law, will be harming the residential community. We opposed this cup but it was approved with some final conditions against our objections. We have abided by that decision based on the authority given in the law. Now it is the county's turn to abide by the law.

The first extension given was illegal and never should have been granted based on the final condition 6 which states:

- 6. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested in writing with the applicable fee six months before the expiration date.**

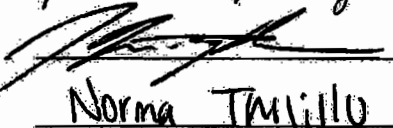
The application for the first extension was requested two months prior to the expiration of the cup not six months as required in the final conditions. The county and the developer had full knowledge of this requirement as indicated in the requirements of condition 3.

- 3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition Nos. 10, 12, 22c and 22.s.**

The residents now request Los Angeles County rescind this illegal fourth year extension. Should the county of Los Angeles fail to rescind this fourth year extension we will take whatever legal remedies are available to us up to and including a class action law suit against the County of Los Angeles.

CUP 01-198-(1) FOURTH YEAR EXTENSION ILLEGAL
SIGNATURE PAGE

March 24, 2009

NAME	ADDRESS
Ramiro Casas	2225 MARDEL AVE
Camina Amezona	2220 Mardel Ave
Tom Dumbell	12429 Pelliker RD
ALFRED I OLAGUE	2237 MARDEL AVE.
Javier Hernandez	2241 Kella Av
Cindy Hansen	2303 Kella Ave
Elizabeth Michel	2257 Mardel Av.
Nicole Garon	2317 Kaydel RD
Michael Morgan	2317 Kaydel Rd
	2317 KAYDEL RD
Norma Trujillo	2318 PEARSON AVE
Angelina D Rodez	2202 KAYDEL RD
ART MEGRETE	2209 MARDEL AVE
Steph Chavarra	2209 Mardel ave
Ch H. Kell	2259 KELL AVE.
Paris B. Sanchez	2269 Kella Ave
Edward Ramirez	2247 Kella Ave Whittier 90601
Karen Skau	2263 KELLA AVE WHITTIER 90601

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

Commission
EDITH RAMIREZ, *Vice President*
LEE KANON ALPERT
WALLY KNOX
FORESCEE HOGAN-ROWLES
BARBARA E. MOSCHOS, *Secretary*

H. DAVID NAHAI,
Chief Executive Officer and General Manager

December 31, 2008

Charles Dunn Equities I, LLC and
Charles Dunn Equities II, LLC
800 W. 6th Street, Sixth Floor
Los Angeles, CA 90017-2709

Attention: Charles Dunn Real Estate Services, Inc. as Managing Agent
Haizou Yang, Managing Member

Dear Mr. Yang:

Subject: DWP File P-76144
Letter of Conditional Permission
Peck Road Development – 2320 Peck Road, City of Industry, CA
Firestone Junction to Lugo Junction Transmission Right-of-Way Victorville/Century
Transmission lines in the vicinity of Peck Road and Pellissier Road
In the County of Los Angeles

This letter concerns your Peck Road Development ("Development" or "Project"), portions of which are located on the above-referenced Los Angeles Department of Water and Power ("LADWP" or "Department") Transmission Line Right-of-Way ("Property"). The Department's Transmission Engineering Group has completed its review of Project plans as latest revised on November 25, 2008, which was emailed to LADWP on the same date. LADWP has no objections to this Project and gives permission for the development of the Project subject to the following conditions:

1. This Letter of Conditional Permission ("Letter") is effective upon the date of signed acceptance of all its conditions by the authorized representative(s) of Charles Dunn Equities I, LLC and Charles Dunn Equities II, LLC ("Developer") who has the authority to enter into binding agreement for the Developer. In the event that this condition is not met, the Letter shall be null and void.

Initial: 

Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA

Recyclable and made from recycled paper.



2. Compliance to the terms and conditions of this Letter shall be applicable to the Developer, its successors and assigns. The Developer shall notify and made aware to all its successors and assigns of the terms and conditions of this Letter. In addition, The Developer shall make compliance to the terms and conditions of this Letter as part of all its agreements with all parties involved in the Development.
3. This Letter is to permit Developer to develop the Project per the plans dated November 25, 2008 ("Plans"), attached hereto as Exhibit A, improvements ("Improvements") which as detailed in the Plans include a parking lot without overnight parking, a sound wall with rolling access gates to residential lots located in LADWP's right-of-way, electrical tower No. 251D3 ("Tower") footing support structure, and landscaping.
4. All Improvements shall be located on the Developer's side of its property line.
5. Developer shall repair and/or replace any damage caused by the Development to LADWP infrastructures located in the right-of-way affected by the Development.
6. LADWP shall not be responsible for any expenses associated with the removal of equipment, materials or facilities to permit access for maintenance or emergency repairs of LADWP infrastructures. Should the Improvements included in this permission need to be removed for any work by LADWP, Developer agree to remove and replace Improvements at its own expense. Developer shall reimburse LADWP for any expenses it incurred in the process of accessing the LADWP Infrastructures in the right-of-way due to obstruction caused by the Development.
7. Developer shall at all times exercise the permission herein given in such manner as will not interfere with the LADWP's use of the property for the purpose for which it is held, not inconsistent with the rights herein granted.
8. Developer shall obtain and pay for all permits and licenses required for performance of the work and shall comply with all the laws, ordinances, rules, orders, or regulations including, but not limited to, those of any agencies, departments, districts, or commissions of the State or County having jurisdiction thereover.
9. Energized transmission lines can produce electrical effects including, but not limited to, induced voltages and currents in persons and objects. Developer hereby acknowledges a duty to conduct activities in such manner that will not expose persons to injury or property to damage from such effects.
10. LADWP personnel shall have continuous and uninterrupted access to the transmission line right-of-way at all times.
11. Unauthorized storage of equipment or material shall not be allowed on the LADWP's Property/right-of-way at any time.
12. Fueling of vehicles or equipment shall not be allowed on the Department's Property/right-of-way at any time.

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13. LADWP may require removal of equipment or materials without prior notice to permit its access for emergency maintenance and operation of the transmission line right-of-way. Should non-emergency maintenance and operation of the transmission line right-of-way requires removal of equipment or materials, if notified, LADWP will work with Developer's designated site manager..
14. Developer is hereby notified that grounding wires may be buried in the right-of-way, therefore, Developer shall notify the Department's Transmission Section at (818) 771-5060 or (818) 771-5076 at least 48 hours prior to the start of any activities ("Work") in the transmission right-of-way. Developer shall coordinate such Work with the Department in advance of any activities so as to identify and address any safety issues that may arise from its operations on the Project Property. Developer's Work on the Project Property shall be conducted during normal business hours and/or at times mutually acceptable to Developer and the Department. The Department shall have the right to be present during any entry onto the Project Property by Developer or its contractors or subcontractors in connection with such Work..
15. The transmission line right-of-way contains high-voltage electrical conductors, therefore Developer shall utilize only such equipment, material, and construction techniques that are permitted under applicable safety ordinances and statutes, including the following: State of California Code of Regulations, Title 8, Industrial Relations, Chapter 4, Division of Industrial Safety, Subchapter 5; Electrical Safety Orders; and California Public Utilities Commission, General Order No. 95, Rules for Overhead Electric Line Construction.
16. Developer shall comply with Engineering Design Standard Grounding of Chain Link Fences and Gates requirements attached hereto as Exhibit B.
17. With respect to the transmission line right-of-way, an area within a radius of at least 50 feet around the base of each electrical transmission tower shall remain open and unobstructed.
18. If LADWP determines at any time that the Development's activities are hazardous or detrimental to Department facilities, the Department shall have the right to immediately order termination of said activities.
19. LADWP's non-objection and permission shall not imply or confer any greater rights or permission than the LADWP has or can lawfully give. Also, this letter shall not be interpreted as the Department's approval of any future redesign or reconstruction of this Project, or any successive development or Project modifications that is not explicitly included in the Plans.
20. Non-compliance to any terms and conditions of this Letter shall result in immediate termination and revocation of the permission herein given. Should permission is revoked, the Developer shall be responsible for removing all Improvements from the Property.

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21. All work done, pursuant to the terms of the permission herein given, shall be done in accordance with the terms and conditions specified in federal and state laws and regulations, and statutes governing such instances; the provisions of such laws, regulations, and statutes are, by this reference, made a part herein as though incorporated verbatim herein.
22. The Department assumes no liability whatsoever for any damages that in any way arise from your Developer's Project. The Developer remains liable for all hazards created and for any damage resulting from the Project and its construction.

23. INSURANCE REQUIREMENTS:

- a. It is the policy of LADWP that upon the award of a contract or issuance of a permission of a particular use in the Department's right-of-way, the Bidder/Proposer/Tenant or Developer and its successors and assigns ("Permittee"), must provide evidence of insurance that conforms to the insurance requirements of the bid/proposal/agreement. Insurance requirements are explained in detail in the following language and "Contract Insurance Requirements" sheet, Exhibit C attached hereto, which specifically outlines the types and amounts of coverage required for this Project. For Developer/Permittee information and use, "Special Endorsement Forms", "Guidance for Submitting Evidence of Insurance" and information on our insurance program for small vendors are available on Department's website.

When and if you are awarded a permission, acceptable evidence of required insurance, from insurers acceptable to the Department, shall be required to be submitted within 30-days of the date of award and maintained current throughout the term of the contract. Said evidence of insurance must be on file with the Risk Management Section, in order to commence work under this Letter and for the permission given herein to be continued.

For further information regarding these requirements, please contact:

Los Angeles Department of Water and Power
Risk Management Section
Phone: (213) 367-4674
Fax: (213) 367-0214
Web: www.ladwp.com/riskmanagement

b. INSURANCE -- APPLICABLE TERMS AND CONDITIONS

i. Additional Insured Status Required

Developer/Permittee shall procure at its own expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on the attached Contract Requirement page. The specified insurance shall also, either by

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provisions in the policies, by City's own endorsement form or by other endorsement attached to such policies, include and insure City, its Department of Water and Power, its Board of Commissioners (hereinafter referred to as "Board"), and all of its officers, employees and agents; their successors and assigns, as additional insureds (except for Professional Liability and Workers' Compensation), against the area of risk described herein as respects Developer's/Permittee's acts or omissions in its performance of the agreement, use and occupancy of the premises hereunder or other related functions performed by or on behalf of Developer/Permittee. Such insurance shall not limit or qualify the liabilities and obligations of the Developer/Permittee assumed under the contract.

ii. Severability of Interests and Cross Liability Required

Each specified insurance policy (other than Workers' Compensation and Employers' Liability and Property coverages) shall contain a Severability of Interest and Cross Liability clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Liability Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Letter of Conditional Permission with the City of Los Angeles."

iii. Primary and Non-Contributory Insurance Required

All such insurance shall be Primary and Noncontributing with any other insurance held by City's Department where liability arises out of or results from the acts or omissions of Developer/Permittee, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Developer/Permittee. Any insurance carried by the Department which may be applicable shall be deemed to be excess insurance and the Developer's/Permittee's insurance is primary for all purposes despite any conflicting provision in the Developer's/Permittee's policies to the contrary.

iv. Deductibles Subject to Department's Discretion

Deductibles and/or self-insured retentions shall be at the sole discretion of the Risk Manager of the Department (hereinafter referred to as "Risk Manager"). The Department shall have no liability for any premiums charged for such coverage(s). The inclusion of the Department of Water and Power, its Board, and all of its officers, employees and agents, and their agents and assigns, as additional insureds, is not intended to, and shall not, make them, or any of them a partner or joint venturer with Developer/Permittee in its operations.

v. Proof of Insurance for Renewal or Extension Required

At least ten (10) days prior to the expiration date of any of the policies required on the attached Contract Requirement page, documentation showing that the insurance coverage has been renewed or extended shall be filed with the Department. If such

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coverage is canceled or reduced in coverage, Developer/Permittee shall, within fifteen (15) days of such cancellation or reduction of coverage, file with the Department evidence that the required insurance has been reinstated or provided through another insurance company or companies.

vi. Submission of Acceptable Proof of Insurance and Notice of Cancellation

Developer/Permittee shall provide proof to the Department's Risk Manager of all specified insurance and related requirements either by production of the actual insurance policy(ies), by use of Department's own endorsement form(s), by other written evidence of insurance acceptable to the Risk Manager, but always in a form acceptable to the Risk Manager and the Office of the City Attorney. The documents evidencing all specified coverages shall be filed with the Department prior to Developer/Permittee beginning operations or occupying the premises hereunder. Said proof shall contain at a minimum, the applicable policy number, the inclusive dates of policy coverages, the date the protection begins for the Department of Water and Power, and the insurance carrier's name. It shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, material reduction in coverage or non-renewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) calendar days prior to the effective date thereof. The notification shall be sent by registered mail to: Risk Management Section – Department of Water and Power, Post Office Box 51111, JFB Room 465, Los Angeles, California 90051-0100.

vii. Claims-Made Insurance Conditions

Should any portion of the required insurance be on a "Claims Made" policy, the Developer/Permittee shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended three (3) years discovery period has been purchased on the expiring policy at least for the contract under which the work was performed.

viii. Failure to Maintain and Provide Proof as Cause for Termination

Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which the Department may immediately terminate or suspend the agreement.

ix. Sub-Contractor Compliance

The Developer/Permittee shall be responsible for all sub-Lessee's/sub-Permittee's/Sub-Licensee's/sub-Tenant's compliance with the insurance requirements.

x. Periodic Right to Review/Update Insurance Requirements

The Department and Developer/Permittee agree that the insurance policy limits specified on the attached Contract requirement page maybe reviewed for adequacy

Initial: 

annually throughout the term of this Agreement by the Risk Manager/City Attorney, who may thereafter require Developer/Permittee to adjust the amounts and types of insurance coverage however the Risk Manager/City Attorney deems to be adequate and necessary. City reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance, including applicable license and ratings.

xi. Specific Insurance Requirements

See Attachment "Contract Insurance Requirements"

xii. Indemnification

The Developer/Permittee has inspected the premises, knows the condition thereof, and on behalf of itself and its successors, assigns and sub-Lessees/sub-Permittees/sub-Licensees/sub-Tenants undertakes and agrees to indemnify and hold harmless the City of Los Angeles, the Department of Water and Power, the Board of Water and Power Commissioners of the City of Los Angeles, and all of their officers, agents, successors in interest, insurers, assigns and/or employees (individually and collectively, "Indemnitees"), and at the option of the City, defend by counsel satisfactory to the City, the Indemnitees from and against any and all liens and claims of lien, suits, causes of action, claims, charges, damages (including but not limited to indirect, consequential, and incidental), demands, judgments, civil fines, penalties, or losses of any kind or nature whatsoever that are incurred by or asserted against the Indemnitees, for death, bodily injury or personal injury to any person, including but not limited to Lessee's/Permittee's/Licensee's/Tenant's employees, customers, invitees and agents, or persons who enter onto the premises, or damage (including environmental damage) or destruction or loss of use of any property of either party hereto, or third persons in any manner arising by reason of, incident to, or connected in any manner to this lease/permit/license/tenancy or to the premises covered under this lease/permit/license, regardless of any negligence on the part of Indemnitees, except for the active negligence or willful misconduct of the Department of Water and Power. This indemnity shall apply whether occurring during the term of this contract and any time thereafter, and shall be in addition to any other rights or remedies which Indemnitees have under law or under this agreement.

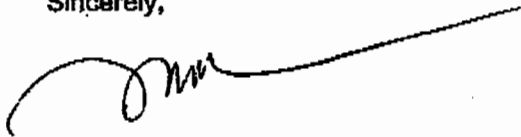
As stated in condition No. 1 above, This Letter of Conditional Permission is effective upon the date of signed acceptance of all its conditions by an authorized representative of Charles Dunn Equities I, LLC. Please acknowledge receipt of this letter by signing and returning the enclosed copy in the envelope provided.

Initial: VP

Mr. Haiou Yang
Page 8 of 8
December 31, 2008

Please contact Gina Nguyen at (213) 367-0337/trang.nguyen@ladwp.com between the hours of 7:00 a.m. and 4:30 p.m. If you have any questions or require additional information. All inquiries concerning this matter should reference DWP File No. P-76114.

Sincerely,



Trang (Gina) H. V. Nguyen
Real Estate Officer

GN:dc
Attachments

Receipt and pledge compliance of the foregoing terms and conditions contained in this Letter of Conditional Permission is hereby acknowledged and accepted.

this 31 day of Dec., 2008

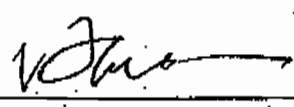
Charles Dunn Equities I, LLC

this 31 day of Dec., 2008

Charles Dunn Equities II, LLC

By: 

Title: manager

By: 

Title: manager

ARMBRUSTER GOLDSMITH & DELVAC LLP

LAND USE ENTITLEMENTS & MUNICIPAL ADVOCACY

R.J. COMER
DIRECT DIAL: (310) 443-1860

10940 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90024

Tel: (310) 209-8800
Fax: (310) 209-8801

E-MAIL: RJ@AG-LandUse.com

WEB: www.AG-LandUse.com

April 29, 2009

VIA ELECTRONIC MAIL AND U.S. MAIL

County of Los Angeles
Regional Planning Commission
320 W. Temple Street
Los Angeles, CA 90012

rruiz@planning.lacounty.gov

Re: Project & CUP Case No. 01-198-(1)—May 6, 2009 Hearing
Agenda Item 7

Dear Honorable Planning Commissioners:

This firm represents the applicant, Charles Dunn Equities, LLC ("CDE"), with regard to the above-referenced case. On CDE's behalf, we appeared before the Regional Planning Department Hearing Officer regarding this matter on March 26, 2009. We will appear before you at your scheduled hearing on May 6, 2009. CDE appreciates the efforts of County staff that have twice extended the CUP. CDE also appreciates the recommendation set forth in the Department of Regional Planning April 23, 2009, report (the "Staff Report") that the Regional Planning Commission allow CDE a reasonable time in which to use Conditional Use Permit No. 01-198 (the "CUP").

We respectfully request that you allow CDE to re-commence construction work pursuant to the CUP. This letter summarizes CDE's assertion that the CUP has already been "used" within the meaning of CUP Condition 6 and Section 22.56.140B of the County Code. Furthermore, even if the County of Los Angeles ("County") issued the second CUP extension in violation of the County Code, the County is legally prohibited from terminating the CUP because CDE has relied in good faith to its detriment on the second extension and other permits issued previously by the County. Nevertheless, CDE desires to work cooperatively with the County to fashion an approach which allows CDE to re-commence and finish its construction under the CUP.

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Background

The CUP was issued November 30, 2005, and authorizes the construction of an industrial park at 2300 Peck Road. The primary reason that the industrial park has not yet been completed is plan check delays by the County and CUP Condition 22d, which requires that CDE obtain a covenant and agreement with the City of Los Angeles Department of Water and Power ("LADWP") authorizing CDE to construct a sound wall within an existing LADWP easement on-site. CDE previously obtained a covenant and agreement with LADWP, dated May 19, 2002, which allows CDE to park and store vehicles and allows vehicular ingress and egress over LADWP's easement. But this prior covenant and agreement did not expressly allow the construction of a sound wall, as required by CUP Condition 22d. The May 19, 2002, covenant and agreement, however, provides if the LADWP does not approve or respond to CDE's construction plans within 45 days, then the plans are deemed approved. By this provision, CDE obtained approved plans from LADWP under the 2002 covenant and agreement showing the sound wall on the subject property. But the County did not accept this as compliance with Condition 22d. Instead, the County required CDE to obtain a new covenant and agreement with LADWP expressly authorizing the sound wall.

This condition makes construction of the project contingent upon successfully negotiating an agreement with one of the most intractable and unyielding government bureaucracies in the State of California. The LADWP is intractable even when clearing conditions of approval for projects within the City of Los Angeles. For a project like CDE's that is outside the City of Los Angeles, the LADWP is notoriously nonresponsive and CDE has no political leverage to pressure LADWP to act. Ultimately, CDE secured a second "formal and written" approval of the detailed construction plan on December 31, 2008.

The timeline shown below demonstrates that after a significant delay caused by governmental impediment and error, grading and building permits were issued and grading and construction commenced immediately upon issuance of those permits. Difficulties in clearing CUP conditions are also primarily the result of government impediment and error.

- 08/21/2001 CDE submitted application/initial study questionnaire to Department of Regional Planning ("DRP")
- 05/19/2002 CDE obtains covenant and agreement with LADWP allowing construction over and parking, storage, ingress, egress over LADWP easement on subject property

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- 07/14/2003 Reuben v. Charles Dunn Equities (VC040419) filed by Douglas Scott and John Hanna of Horton B&R on behalf of project opponent (and project neighbor) Carl Reuben
- 12/01/2003 Court grants CDE's Demur to eliminate claim of improper CUP Application
- 11/10/2004 Court rules in CDE's favor and orders petitioner Reuben to pay costs
- 11/30/2005 Regional Planning Commission ("RPC") approves CUP and establishes conditions and mitigation measures
- 12/12/2005 Notice of Determination issued—no law suit filed during 30-day statute of limitations period
- 1/11/2006 CUP survives threatened litigation
- 5/19/2006 CDE submits building plans to County Department of Building & Safety ("DBS") for plan check
- 09/25/2007 CDE files for 1-year extension of CUP due to plan check delay by County Department of Public Works ("DPW") (pays \$455 fee)
- 11/06/2007 Hearing Officer approves 1-year CUP extension from 11/30/07 to 11/30/08
- 05/15/2008 DPW issues Grading Permit 0200-0804010002 and the grading work commences at site
- 05/15 -07/24 Work at site:
- Cut 20,000 cubic yds; fill 25,000 cubic yds (no soil import or export—grading balanced on-site); add 3,000 cubic yds for temporary berm to protect existing residence backyards;
 - Demolished existing building and sign structures and removed debris and trash;
 - Graded and re-compacted existing soil at building pads;
 - Set up SWPPP storm water systems per approved Best Management Program;
 - Installed temporary fencing for the site and three neighbors;

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- Created a detention basin;
- Stabilized soil on southern property line;
- Hydrated soil in place

07/24/2008 DPW certifies and accepts rough grading and building pads

08/11/2008 DPW issues **Building Permit 0200-0706070033** and **construction commences**

08/20/2008 DRP staff issues "**Notice of Violation**" ("**NOV**") for alleged violations of CUP; CDE immediately responds to NOV, demonstrating that most of the alleged violations are clerical errors by the County failing to keep records of compliance by CDE, the refusal of DRP to accept plans approved under the 2002 LADWP agreement, and the recalcitrance of LADWP in responding to CDE's attempts to obtain a new written approval of the detailed plan from LADWP, approximately 75 months after CDE first submitted the plans to LADWP

08/21/2008 **Stop Work Order** issued by DPW Inspector Amilear Castillo, stating "Please obtain Regional Planning approval for compliance with CUP conditions before *permits can be reinstated* by Building and Safety"

08/26/2008 CDE meets with Alex Garcia (DRP Senior Planner) regarding Notice of Violation, and provides evidence of previous compliance with every condition except for Items 5 and 6 on the NOV. Regarding Item 5, CDE refrained from holding community meetings because DRP Staff Member Karen Simmons told CDE to refrain. Regarding Item 7, CDE explained its efforts to obtain the required approval from LADWP

09/16/2008 CDE delivers letter to DRP Senior Planner Alex Garcia memorializing compliance with all alleged violation of conditions set forth in the NOV

10/29/2008 CDE files second 1-year extension of CUP request due to continued review by County/DWP (pays \$470 fee)

11/17/2008 DRP Hearing Officer (John Gutwein) approves second one-year extension from 11/08 to 11/30/09

12/31/2008 LADWP issues conditional approval letter for construction plans submitted by CDE allowing the construction of a sound wall within LADWP's "Firestone-Lugo

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Transmission ROW" – thereby fulfilling the issue raised by NOV in connection of the LADWP Covenant agreement required by CUP Condition 22.d

- 01/22/2009 Additional investigation and approval of screen/sound wall by County Department of Health Services
- 02/07/2009 Building Permit expiration date—CDE does not apply for extension in reliance of written promise from Inspector Castillo that building permits would be reinstated
- 02/12/2009 DRP Impact Analysis staff clears Mitigation Monitoring Program compliance
- 02/17/2009 DRP's zoning enforcement staff issues "Closed" letter, effectively rescinding the prior Notice of Violation letter – Despite issuance of the "Closed Letter" County does not lift STOP ALL WORK Order
- 03/26/2009 DRP issues staff (M Masis to J Gutwein) report disclosing that County may not have had authority under the County Code to issue a second CUP extension, but recommending that additional time be given to allow CDE to "utilize" the CUP
- 04/07/2009 Stop Work Order still in effect, County DRP Hearing Office holds public hearing to consider if additional time is given to allow CDE to "utilize" the CUP
- 04/23/09 DRP staff report to RPC recommending that the RPC provide CDE "a reasonable period of time, such as 45 days, in which to use the CUP

The Notice of Violation should have been Closed in September of 2008 and the Stop Work Order should have been Lifted at that Time

The Notice of Violation was probably issued in error because most of the alleged violations were not violations of the conditions at all. But because CDE did not dispute the NOV at the time, we will not do so herein. However, the above timeline demonstrates that the NOV should have been lifted in September of 2008, when substantial evidence was presented that CDE had not violated any conditions of approval or otherwise provided DRP with evidence of compliance. And the stop work order should also have been lifted at that time. The County had no basis to consider CDE's inability to obtain the second LADWP approval a violation of its conditions when CDE already had an approved plan from LADWP under the May 19, 2002, covenant and agreement and when CDE had been diligently attempting to obtain this document

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from LADWP. Furthermore, the Stop Work Order should also have been lifted at that time because the Stop Work Order was based only on the Notice of Violation.

Furthermore, the County may assert that the grading permit was not validly issued because at the time there existed alleged violations of CUP conditions that were later set forth in the NOV. This assertion is flawed because the DRP signed-off on the grading permit and because the NOV included alleged violations that were not violations at all, but instead were clerical factual errors on the part of DRP.

The County having failed to close the Notice of Violation until February 17, 2009—five months after compliance had been demonstrated and 6 weeks after LADWP granted the approval required—caused CDE's delay in continuing construction on-site. This unnecessary delay caused by the County prompted the second CUP extension. Furthermore, this unnecessary delay by the County combined with Inspector Castillo's promise that building permits would be reinstated once the MOV was closed, prompted CDE to refrain from applying for a building permit extension and allowed CDE's building permit to expire—to CDE's detriment.

CDE is currently working with LADPW to get the grading and building permits re-instated. They may be re-instated in advance of the RPC hearing.

The CUP Has Already Been "Used" Prior to the Second Extension

The second extension of the CUP was unnecessary because the CUP has already been "used" within the meaning of CUP Condition 6 and Section 22.56.140B of the County Code. The County Code states:

"A conditional use permit shall be considered used, within the intent of this section, when construction or other development authorized by such permit has commenced that would be prohibited in the zone if no permit had been granted."

The grading and construction work that CDE commenced in May 2008 pursuant to a validly-issued grading permit (prior to the second CUP extension) and issuance of the building permit constitutes use of the CUP. There is no dispute that construction of an industrial park at the subject property requires a CUP. The County would not allow any grading or construction to occur on any site without first issuing grading and building permits. The grading and building permits that the County issued CDE were issued only because CDE held the CUP. Thereafter, CDE not only commenced grading and installation of fences and berms, but completed these

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activities and LADPW certified the pads. As shown in the time line above, this work constituted a substantial amount of site work. It was more than merely moving a small amount of dirt around the site. Consequently, the grading and construction constitutes activity and use *that would otherwise be prohibited if no permit [CUP] had been granted.*

CDE, therefore, respectfully requests the RPC to find that the CUP was "used" within the meaning of County Code section 22.56.140B. Such a finding would render the second CUP extension unnecessary—thereby precluding any need to fashion an equitable remedy for the County's possible error in issuing the second CUP extension.

The County is Legally Estopped from Shortening or Rescinding the Second CUP Extension

If the RPC declines to find that the CUP has already been used, then the County must allow CDE to continue its work and use the CUP under the second CUP extension. The legal doctrine of equitable estoppel compels the County to honor the second CUP extension.

Equitable estoppel may be applied against government action under the following criteria: (1) the party to be estopped must be apprised of the facts; (2) the party to be estopped must intend that its conduct shall be acted upon or must so act that the party asserting the estoppel has a right to believe it was so intended; (3) the party asserting the estoppel must be ignorant of the true state of facts; (4) the party asserting the estoppel must rely upon the conduct to its injury, and that reliance must be reasonable under the circumstances.¹ Equitable estoppel can be applied against a local governmental entity, when justice and fairness require it and the application will not result in nullifying a strong rule of public policy.²

By CDE's October 29, 2008, request for a second CUP extension, the County was apprised of the fact that CDE thought a second CUP extension was necessary because the LADWP had not given the approval required by CUP Condition 22.d. The County's November 17, 2008, CUP extension clearly demonstrates the County's intention that CDE rely on the extension. The second CUP extension stated: "as outstanding documentation from the Department of Water and Power is currently preventing the project from being vested." This statement constitutes an admission by the County that the CUP extension is necessary, and the

1. *Wilson v. City of Laguna Beach* (1992) 6 Cal.App.4th 543; *City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 469.

2. *Strong v. County of Santa Cruz* (1975) 15 Cal.3d 720.

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County cannot dispute that such language would induce any reasonable applicant to rely on the extension. Furthermore, the County had a pattern and practice of granting second CUP extensions—so CDE could not reasonably have known or believed that the second CUP extension was invalid. Thus, CDE was ignorant of the fact that the County may not have been authorized to grant a second CUP extension, and was certainly ignorant of the possibility that the County may rescind or seek to shorten the extension.

Finally, CDE relied on the extension to its detriment, and its reliance was reasonable. First, following issuance of the second CUP extension, CDE incurred substantial fees and costs (including \$200,000.00 fee paid to LADWP plus CDE's cost with professional services) associated with obtaining a second (and unnecessary) LADWP agreement. Second, all the grading work and clearance of conditions was done in reliance on the availability of a second CUP extension—which reliance was based on the pattern and practice of the County issuing second CUP extensions. Third, had CDE known that a second CUP extension could not be granted, CDE would have taken steps to minimize its financial liability with its investors and lenders and would have aggressively argued that the Stop Work Order be lifted. In addition to all the work CDE has already completed, CDE's financial liability in reliance on the second CUP extension includes the following:

- Plan check and Government Fees \$475,000;
- County grading deposit \$98,000;
- County inspection deposits;
- Architecture & Engineering \$375,000;
- Financing fee \$185,000;
- Construction cost \$680,000;
- Remaining obligation from the construction contract \$8,000,000;
- Contractor damages due to Stop Work Order \$350,000 (estimated);
- Taxes and insurance costs \$ \$250,000;
- Pre-development costs \$558,000.

In an attempt to reject CDE's equitable estoppel claim, the County may assert that, because the County Code does not authorize a second CUP extension any such extension is

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invalid and, therefore, unreliable. But case law interpreting both vested rights claims and equitable estoppel claims include examples of building permits issued in contravention of zoning ordinances wherein the developers' rights were upheld—despite the fact that a government agency issued the permit in error.³

Admittedly, equitable estoppel is rarely applied. Only in unusual circumstances will equitable estoppel prevent a government agency from taking some action that it may otherwise be authorized to take. Equitable estoppel is applied only when it is necessary to remedy a grave injustice and when there is minimal public harm in granting estoppel. This is such a case. In this case no harm will come to public if the County allows CDE to continue construction of the industrial park. Public policy encourages consistent and fair application of government requirements, preventing undue surprise on land owners—such as the undue surprise that would harm CDE if the County rescinded the second CUP extension. The County has since ceased all second CUP extensions, so estoppel in this case will not create a precedent. By contrast, if the County is not estopped from rescinding or shortening the CUP extension, then CDE's eight years of litigation, effort, expense, and on-site work will be nullified—essentially returning CDE to the place it was in before it applied for the CUP with nothing to show for its efforts and expense. The approximate total financial liability to CDE could be as high as \$10 million, and existing on-site work already performed will have been wasted effort.

CDE Endeavors to Cooperate with the County in Fashioning a Reasonable Equitable Remedy

Although CDE asserts that it has already used the CUP prior to the second extension, and in the alternative asserts that the County is estopped from rescinding or shortening the second extension of the CUP, CDE nevertheless wishes to cooperate with the County in fashioning an equitable remedy to allow CDE to continue its use of the CUP and complete the industrial park.

CDE appreciates the efforts and recommendations of DRP staff to allow a reasonable amount of time for CDE to do additional work. However, a reasonable amount of time should be no less than 45 work days, not calendar days, and the amount of time should be tolled if work

3. Estoppel and vested rights claims are essentially synonymous in land use cases. *Shae Homes Ltd. Partnership v. County of Alameda* (2003) 110 Cal.App.4th 1246; *See, e.g., Congregation ETZ Chaim v. City of Los Angeles* (9th Cir. 2004) 371 F.3d 1122, 1123-1125; *Anderson v. City of La Mesa* (1981) 118 Cal.App.3d 657.

ARMBRUSTER GOLDSMITH & DELVAC LLP

County of Los Angeles
Regional Planning Commission
April 29, 2009
Page 10

cannot proceed due to delays in reinstating the building permit or obtaining a new building permit. Furthermore, the amount of work that would constitute use of the CUP must be precisely set forth to avoid any confusion or ambiguity.

The CUP only allows construction activities five days per week. Consequently, an extension of only 45 calendar days would only allow approximately 37 working days. At the very least, 45 working days should be allowed.

CDE is prepared to immediately get back to work on-site, provided that grading and building permits are reinstated. As soon as the County lifts the Stop Work Order and permits work to resume on-site, CDE's immediate site work will commence. CDE proposes that following activities be set forth in any determination by the RPC as the activities that constitute use of the CUP:

1. Reprocess finished building pads and retaining wall footing;
2. Layout of catch basin and 30 feet of storm drain line;
3. Excavate storm drain catch basin and storm drain piping;
4. Install sand bedding and storm drain piping for inspection by County;
5. Tie-into existing LA County Storm Drain for inspection by County.

Conclusion

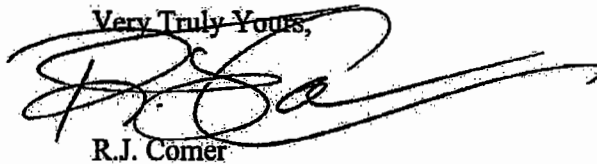
Again, CDE appreciates the efforts of County staff and the DRP's recommendation to the RPC that reasonable time be granted to do additional construction work. The most appropriate solution is to find that the work already performed on-site pursuant to the grading and building permits constitutes use of the CUP and that the second CUP extension is not necessary. In the alternative, the doctrine of equitable estoppel compels the County to allow work to continue under the second CUP extension. If the RPC, however, provides a reasonable time to perform additional work which the County will consider "use" of the CUP, CDE will immediately and diligently perform that work and work cooperatively with the County.

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We look forward to working cooperatively with the County to establish a mutually-acceptable and fundamentally fair process for going forward.

Very Truly Yours,

A handwritten signature in black ink, appearing to be "R.J. Comer", written over a horizontal line.

R.J. Comer

cc: Patricia Keene, Deputy County Counsel (via electronic delivery)
Nicole England, Office of County Supervisor Gloria Molina (via electronic delivery)
Tyler Montgomery, Regional Planning Assistant II (via electronic delivery)
Haiou Yang, Charles Dunn Equities, LLC (via electronic delivery)
Aaron Clark, Armbruster Goldsmith & Delvac (via electronic delivery)

Date MAY 19, 2009

Mr. Don Ashton
Deputy Executive Officer
Los Angeles County Board of Supervisors
Room 383, Kenneth Hahn
Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Mr. Ashton:

Subject: CUP 01-198-(1)

Use: WORKMAN MILL TO AUTHORIZE THE

CONSTRUCTION, OPERATION AND MAINTENANCE OF INDUSTRIAL PARK

Address 2300 BLOCK OF S. PECK ROAD

WORKMAN MILL Zoned District

Related zoning matters:

Tract or Parcel Map No. N/A

Change of Zone Case No. N/A

Other _____

This is a notice of appeal from the decision of the Regional Planning Commission on:
(Check One)

☐ The Denial of this request

☒ The Approval of this request

☐ The following conditions of the approval:

Briefly, the reason for this appeal is as follows:

THIS IS TO APPEAL THE GRANTING OF A SECOND ONE
YEAR EXTENSION IN VIOLATION OF LOS ANGELES
COUNTY CODE 22.56.140, THE REGIONAL
PLANNING COMMISSION MADE THEIR ORDER WITH OUT,
OR IN EXCESS OF, JURISDICTION. WE ALSO BELIEVE
THAT THEIR DECISION WAS INFLUENCED BY
EXTRANEOUS CONSIDERATIONS.
(ATTACHED LIST OF RESIDENTS OPPOSING)

Enclosed is a check (or money order) in the total amount of \$ _____.
The amount of \$1,548.00 for applicants or \$775.00 for non-applicants is to cover the
Regional Planning Department's processing fee.

Carl H. Reuben
(Signed) Appellant

CARL H. REUBEN FOR RESIDENTS
Print Name

2259 KELLA AVENUE
Address

WHITTIER, CALIFORNIA 90601

562-692-4334
Day Time Telephone Number

May 14, 2009

Los Angeles County Board Of Supervisors
c/o Sachi A. Hamai, Executive Officer
500 W. Temple Street Room 383
Los Angeles, California 90012

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

Dear Supervisors:

We, the residents of Pellissier Village Equestrian District, wish to appeal the May 6, 2009, decision of the Regional Planning Commission on CUP 01-198-(1). Their decision to allow the continuation of a second year extension is a clear violation of Los Angeles County Code 22.56.140 and final condition 6. The county code is explicitly clear with respect to a second one year extension and does not allow for any discretion with respect to it. The Regional Planning Commission made their order without, or in excess of, jurisdiction. We also believe that their decision was influenced by extraneous considerations.

The initial studies were completed on August 2001. A Mitigated Negative Declaration was prepared for this project. The following potential impacts were identified: geotechnical hazards, flood hazards, noise, water quality, traffic/access and utilities.

The residents have been harmed in the following manner. The studies are eight years old and now far out of date. Had the Planning Commission complied with the Los Angeles County Code the developer would have had to reapply for a conditional use permit. In which case California Environmental Quality Act (CEQA)(Public Resources Code Section 21000 et. seq.) would have had to be revisited and current studies and/or mitigating factors considered. There have been new requirements passed, to protect the residents, that the developer would have to meet if required to request a new CUP as the county code calls for. The actions of the Planning Commission have denied these protections of health and safety to the community.

NAME	ADDRESS
<u>Art Negro</u>	<u>2209 MARDEL AVE</u>
<u>Stella Chavarria</u>	<u>2209 MARDEL AVE</u>
<u>Carl H. Ruch</u>	<u>2259 KELLA AVE.</u>

SIGNATURE PAGE

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

We the undersigned have read the request for appeal to the board of supervisors, dated May 14, 2009, from the Regional Planning Commission's decision on CUP 01-198-(1) and place our signature in agreement.

NAME	ADDRESS
SUA C. ZAVALA	41312 KATHLEEN
OLIVIA ZAVALA	41312 KATHLEEN
CORIOS CHAVEZ	2322 KAYDEL RD
ALBA CHAVEZ	2322 KAYDEL RD
JASC J Flores	2316 Kaydel Rd
Rosa Cornejo	2316 Kaydel Rd.
Jennifer TORRES	2310 Kaydel Rd.
MARIA CORONEL	2290 KAYDEL Rd
Maria Coronel	2290 KAYDEL Rd
CARLOS CORONEL	2290 KAYDEL Rd
Armando Abeday	2278 Kaydel Rd
Bertha Abeday	2278 Kaydel Rd
RAMONA ESPINDA	2209 MARDEL ME
Jan Moreno	2268 Kaydel RD
Rosalie McKeen	2258 Kaydel Rd
Sam Hurtado	2262 Kaydel Rd
Celia Hurtado	2262 Kaydel Rd.
RUBEN HURTADO	2337 KAYDEL

SIGNATURE PAGE

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NAME	ADDRESS
Laura N. Torres	12505 PELISSIER RD WHITTIER CA
Enrique Moreno	SAME
Eduardo Vega	12154 FAMOSA ST WHITTIER CA.
Aldo Vega	SAME
Don J. J. J.	12444 FAMOSA ST. WHITTIER
Ruby Z. J.	12444 FAMOSA ST. WHITTIER, CA
NOE CATHANO	1956 BURNETT RD S. ELEMENTE CA, 91735
Ariana Rodriguez	2202 Kaydel Rd Whittier CA 90601
Ramiro Rodriguez	12432 FAMOSA ST
Isabel Valenzuela	12432 FAMOSA ST
Vivette Hernandez	12432 FAMOSA ST
PATRICIA ANAYA	12417 PELISSIER RD
ERNESTO ANAYA	12417 PELISSIER RD
MARCIAL ANAYA	12417 PELISSIER RD
ENRIQUE RODRIGUEZ	2202 KAYDEL RD
Angelina D Rodriguez	2202 KAYDEL RD
Jose Garcia	2247 Kaydel Rd
Ruth Garcia	2247 Kaydel Rd

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NAME	ADDRESS
JORGE CARLOS GUNZALEZ	2247 KAYDEL
FREDERICKA LOPEZ	2247 KAYDEL
Juan Valdez	2244 Kaydel Rd
Rosa Ortiz	2244 Kaydel Rd
Marianne Valdez	2244 Kaydel Rd
Christie Zuniga	2244 Kaydel Rd
David Zuniga	2244 Kaydel Rd
Jane Siegelhofer	2234 Kaydel Rd
Robert Siegelhofer	2234 Kaydel Rd
Ernest Correa	2226 Kaydel Rd
Gabriela Rivera	2219 Kaydel Rd.
Rene Perez	2219 Kaydel Rd.
MARIS DASSI	2225 Kaydel Rd.
RAMON ANGEL	2225 Kaydel
Leonard Pinkert	2229 Kaydel
JUANITA PINKERT	2229 KAYDEL
Art Delgado Sr	2235 Kaydel
Arturo Delgado Sr	2235 Kaydel

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NAME	ADDRESS
Oliverio Parra	2258 Mardel Ave
Emilia Parra	2258 Mardel Ave
Abessa Romero	2257 Mardel Ave
Paul Salcido	2269 Mardel
Pearl O Salcido	2269 Mardel
Jennifer Salcido	2269 Mardel
Katherine Salcido	2269 Mardel
George Magdaleno	2311 Kaydel Rd
Nicole Garcia	2317 Kaydel Rd
Jane Smith	2317 Kaydel Rd
Kathy Garcia	2317 Kaydel Rd
Pedro A Carrillo	2338 Kaydel Rd
MARIO PEREZ, LPS	2323 Kaydel Rd
Gustavo Rodriguez	2335 Kaydel Rd
John Covarrubias	2341 Kaydel Rd
Jesus Castaneda	2347 Kaydel Rd
Jesenia Flores	2348 Kaydel Rd
Yessica Perez	2344 Kaydel Rd. Whittier ca.

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NAME	ADDRESS
JORGE SANCHEZ	2321 Kella ave Whittier 90601
Edward J. Ramirez	2247 Kella Av. Whittier 90601
Sylvia M. Rodriguez	2247 Kella Ave. Whittier 90601
JOSE ACOSTA	2215 MARDEL AVE
VANESSA ACOSTA	2215 MARDEL AVE
Yvonia Castaneda	2221 mardel Ave.
Imelda Castaneda	2221 mardel Ave.
Danny Castaneda	2221 mardel Ave.
Edgar Castaneda	2221 mardel Ave.
Jasmine Lopez	2224 mardel Ave.
MANUEL CARRILLO	2250 mardel ave whittier 90601
GERARDO CARRILLO	2250 MARDEL AVE
ROSA CARRILLO	2250 MARDEL AVE
ALFRED I. OLAVE	2237 MARDEL AVE
LEONOR OLAVE	2237 MARDEL AVE
James V. Buck	2250 MARDEL AVE
Ernie Parra	2258 mardel AVE
Letty Parra	2258 mardel AVE

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NAME	ADDRESS
Ramiro Arras III	2225 Mardel Ave
Ramiro Arras	2225 Mardel Ave
Pruling	2225 Mardel Ave
HELENA ARRAS	2225 MARDREL AVE.
Juanca Rodriguez	2241 MARDREL AVE
Ezequiel M Lopez	2241 Mardel ave
Ayde Soto	2208 Mardel Av.
Jose M. Rodarte	2208 Mardel Av.
David Cravy	2208 Kaydel Rd
Darrell Cravy	2208 Kaydel Rd
Patricia Cravy	2208 Kaydel Rd
Lindsey Cravy	2208 Kaydel Rd
Chelsi Cravy	12454 S. 100th ST.
Manuel Hernandez	2203 Kaydel Rd
Julian Sanchez	2203 KAYDEL. RD.
Jennifer Martinez	12435 PELLISIER
Josmaria Alvarez	12435 PELLISIER
M. Oloros Alvarez	12435 PELLISIER

SIGNATURE PAGE

RE: Appeal Of Planning Commission Ruling On CUP 01-198-(1) On May 6, 2009

We the undersigned have read the request for appeal to the board of supervisors, dated May 14, 2009, from the Regional Planning Commission's decision on CUP 01-198-(1) and place our signature in agreement.

NAME

ADDRESS

PAMELA BUSCA

2269 KAYDEL RD WHITTER

EARL YOUNG

2269 KAYDEL RD WHITTIER

SHERRY ROBERTS

2214 KAYDEL RD WHITTIER

KAREN SKAU

2263 Kella Ave Whittier

John Bustamante

2263 KELLA AVE WHITTIER

Cynthia L. Reeb

2259 KELL AVE.

Edward T. Sander ES

2269 Kella Ave.

COUNTY OF LOS ANGELES
DEPARTMENT OF REGIONAL PLANNING
320 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

MITIGATED NEGATIVE DECLARATION

PROJECT NUMBER: CUP 01-198

1. DESCRIPTION:

The proposed project is a request to construct an industrial park consisting of four (two in County) buildings with 198 parking spaces. The units of the buildings will be used for warehouse and manufacturing purposes.

2. LOCATION:

12200 Block of East Pellissier Road

3. PROPONENT:

*Hai Ou Yang
600 W. 6th Street, 6th Floor
Los Angeles, CA 90017*

4. FINDINGS OF NO SIGNIFICANT EFFECT:

BASED ON THE ATTACHED INITIAL STUDY, IT HAS BEEN DETERMINED THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

5. LOCATION AND CUSTODIAN OF RECORD OF PROCEEDINGS:

THE LOCATION AND CUSTODIAN OF THE RECORD OF PROCEEDINGS ON WHICH ADOPTION OF THIS NEGATIVE DECLARATION IS BASED IS:
DEPARTMENT OF REGIONAL PLANNING, 320 WEST TEMPLE STREET, LOS ANGELES, CA 90012

PREPARED BY: Christina D. Tran

CT

DATE: August 7, 2002

PROJECT MITIGATION MEASURES DUE TO ENVIRONMENTAL EVALUATION

Project: CUP 01-198

The Department of Regional Planning (DRP) staff has determined that the following conditions or changes in the project are necessary in order to assure that the proposed project will not cause significant impacts on the environment.

The permittee shall deposit the sum of \$3000.00 with the Department of Regional Planning within 30 days of permit approval in order to defray the cost of reviewing and verifying the information contained in the reports required by the Mitigation Monitoring Program.

1. Applicant shall comply with the NPDES requirements that must incorporate permanent post-construction Best Management Practice (BMP) of the California Regional Water Quality Control Board and the Los Angeles County Department of Public Works. The BMP shall be reviewed and approved by DPW prior to the issuance of a building permit.
2. Applicant shall implement a recycling program by providing adequate waste storage area for the collection/storage of recyclables and green waste material during the entire lifetime of the project.
3. Applicant shall comply with the drainage concept approved on July 15, 2002 prior to the issuance of a building permit.
4. Prior to issuance of grading/building permit, applicant shall submit a detailed liquefaction analyses to the satisfaction of the DPW.
5. Prior to the approval of grading/building permit, applicant shall combine the two north driveways on Peck Road to provide full access to the satisfaction of DPW.
6. A detailed striping plan and a revised site plan showing the internal circulation and the required improvements shall be submitted to Public Works to their satisfaction and approval prior to issuance of building permit.
7. Prior to the issuance of the Certificate of Occupancy, applicant shall construct a screen wall separating the project from the single-family residences to the south of the project site to the satisfaction of the Department of Health Services.
8. No outdoor public address system and no outdoor mechanical trash compacter shall be installed on site during the entire lifetime of the project.
9. Prior to the issuance of a building permit, the applicant shall demonstrate to the satisfaction of Environmental Health section of the Department of Health Services that adequate public water service and public sanitary sewer are provided.
10. There shall be at least a 80' setback on the rooftops bordering residential areas where no equipments or structures shall be placed.

11. Applicant shall submit a landscape plan to be reviewed and approved by DRP and the City of Industry engineer prior to issuance of building permit.
12. Prior to approval of certificate of occupancy, applicant shall record a covenant to hold property as one parcel with the County Clerk.
13. Applicant shall obtain an Industrial Waste Permit from the City Engineer as required by the City of Industry Conditions.
14. All street lights installed along the street frontage of a development shall be annexed into the appropriate Los Angeles County Lighting Maintenance District. Applicant shall execute and approve a separate petition for annexation into a Los Angeles County Lighting District upon written request by the City of Industry.
15. Prior to the issuance of a building permit, applicant shall pay their Equitable Share for traffic mitigation in the amount of \$79,377 to the California Department of Transportation (Caltrans).
16. Applicant shall maintain equipment and vehicle engines in good condition and in proper tune as per manufacturers' specifications.
17. Trucks hauling dirt, sand, gravel, or soil shall be covered or shall maintain at least two feet of freeboard in accordance with Section 23114 of the California Vehicle Code.
18. Applicant shall pave parking areas and construction access roads to the main roads to avoid dirt being carried on to the highway.
19. Only light colored roof materials shall be used to deflect heat.
20. The contractor shall use architectural coatings that have a volatile organic compound (VOC) content of 100 g/l or less. If a coating with a higher VOC content is used such as for painting doors, the amount of coating used per day shall be limited to that amount which will result in an emission rate that is less than 75 lbs. Only high-volume, low-pressure (HVLV) spray guns shall be used for architectural coating.
21. Prior to the issuance of a grading/building permit, whichever occurring first, applicant shall submit a Phase I environmental assessment report for the review and approval by the California Regional Water Quality Control Board and a copy of the report shall be forwarded to the Department of Health Services, the Environmental Programs Division of the Department of Public Works, and the California Department of Toxic Substance Control. If soil contamination is found, applicant shall perform remediation to the full satisfaction of the above-mentioned agencies.

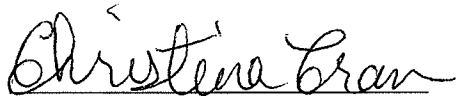
22. If during construction of the project, soil contamination is suspected, construction in the area shall stop, and appropriate health and safety procedures shall be implemented. If it is determined that contaminated soils exists, applicant shall contact the Department of Toxic Substances Control and the Department of Public Works to identify how any required investigation and/or remediation will be conducted, and which government agency will provide regulatory oversight.

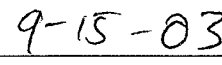
As the applicant, I agree to incorporate these changes/conditions into the project, and understand that the public hearing and consideration by the Planning Commission will be on the project as changed/conditioned.

Applicant

Date

[] No response within 10 days. Environmental Determination requires that these changes/conditions be included in the project.


Staff


Date

**Conditional Use Permit 01-198
Mitigation Monitoring Program**

Impact Mitigation	Responsible Agency or Party	Action Required	Monitoring Agency or Party	Timing
Geology/Soil Applicant shall submit a detailed liquefaction analyses to the satisfaction and approval of the DPW.	Project Applicant	Submittal and approval of a detailed liquefaction analyses	DPW	Prior to issuance of grading/building permit
Drainage/Flood Protection Applicant shall comply with all requirements of the drainage concept that was approved on July 15, 2002.	Project Applicant	Comply with all requirements of the drainage concept	DPW	Prior to the issuance of grading permit

Noise	Project Applicant	Construct a sound wall	DHS	Prior to the issuance of certificate of occupancy
Applicant shall construct a screen wall separating the project from the single-family residences to the south of the project site to the satisfaction of the Department of Health Services.				
No outdoor public address system and no outdoor mechanical trash compacter shall be installed on site.	Project Applicant	No installation of outdoor public address system or outdoor mechanical trash compacter	DHS	During the entire lifetime of project
There shall be at least a 80' setback on the rooftops bordering residential areas where no equipments or structures shall be placed.	Project Applicant	No equipments / structures shall be placed within 100' setback on the rooftops	DRP	During entire lifetime of project

Water Quality Applicant shall comply with the NPDES requirements that must incorporate permanent post-construction Best Management Practice (BMP) of the California Regional Water Quality Control Board and the Los Angeles County Department of Public Works. The BMP shall be reviewed and approved by DPW prior to the issuance of a building permit.	Project Applicant	Acquire NPDES permit	CRWQCB DPW	Prior to the issuance of the building permit
Air Quality Applicant shall maintain equipment and vehicle engines in good condition and in proper tune as per manufacturers' specifications	Project Applicant	Maintain equipment and vehicle engines in good condition and proper tune	DRP	During construction and project lifetime
Trucks hauling dirt, sand, gravel, or soil shall be covered or shall maintain at least two feet of freeboard in accordance with Section 23114 of the California Vehicle Code	Project Applicant	Trucks shall be covered or shall maintain at least two feet of freeboard	DPW	During construction
Applicant shall pave parking areas and construction access roads to the main roads to avoid dirt being carried on to the highway	Project Applicant	Pave parking areas and construction access road	DPW	Prior to any construction activities
Only light colored roof materials shall be used to deflect heat	Project Applicant	Only use light colored roof materials	DRP	At plan check and Exhibit "A"

Project applicant shall ensure that contractor shall use architectural coatings that have a volatile organic compound (VOC) content of 100 g/l or less. If a coating with a higher VOC content is used such as for painting doors, the amount of coating used per day shall be limited to that amount which will result in an emission rate that is less than 75 lbs. Only high-volume, low-pressure (HVL P) spray guns shall be used for architectural coating	Project Applicant	Only use architectural coatings that have VOC content of 100 g/l or less and only HVL P spray guns shall be used	DRP	During construction
Traffic / Access Applicant shall combine the two north driveways on Peck Road to provide full access to the satisfaction of DPW	Project Applicant	Combine the two north driveways on Peck Road	DPW	Prior to the issuance of grading/building permit
Applicant shall submit a detailed striping plan and a revised site plan showing the internal circulation and the required improvements to the satisfaction and approval from the DPW	Project Applicant	Submit a detailed striping plan and a revised site plan	DPW	Prior to the issuance of building permit
Prior to the issuance of a building permit, applicant shall pay their Equitable Share for traffic mitigation in the amount of \$79,377 to the California Department of Transportation (Caltrans)	Project Applicant	Remit \$79,377 to Caltrans and provide DRP proof of payment	Caltrans DPW	Prior to the issuance of a building permit
Utilities Applicant shall demonstrate to the satisfaction of Environmental Health section of the Department of Health Services that adequate public water service and public sanitary sewer are provided	Project Applicant	Submit all required information to DHS to their satisfaction and approval	DHS	Prior to the issuance of building permit

Applicant shall implement a recycling program by providing adequate waste storage area for the collection/storage of recyclables and green waste material during the entire lifetime of the project	Project Applicant	Implement a recycling program	DPW	During entire lifetime of project
All street lights installed along the street frontage of a development shall be annexed into the appropriate Los Angeles County Lighting Maintenance District. Applicant shall execute and approve a separate petition for annexation into a Los Angeles County Lighting District upon written request by the City of Industry	Project Applicant	Annex street lights along street frontage into the appropriate Los Angeles County Lighting Maintenance District	City of Industry	Prior to issuance of the building permit or upon written request by the City of Industry
Applicant shall obtain an Industrial Waste Permit from the City Engineer as required by the City of Industry Conditions.	Project Applicant	Obtain Industrial Waste Permit	DPW	Prior to issuance of the building permit
Environmental Safety Prior to the issuance of a grading/building permit, whichever occurring first, applicant shall submit a Phase I environmental assessment report for the review and approval by the California Regional Water Quality Control Board and a copy of the report shall be forwarded to the Department of Health Services, the Environmental Programs Division of the Department of Public Works, and the California Department of Toxic Substance Control. If soil contamination is found, applicant shall perform remediation to the full satisfaction of the above-mentioned agencies.	Project Applicant	Submit Phase I environmental assessment report and perform remediation if contamination is found	CRWQCB DHS DPW DTSC	Prior to the issuance of a grading/building permit, whichever occurring first

If during construction of the project, soil contamination is suspected, construction in the area shall stop, and appropriate health and safety procedures shall be implemented. If it is determined that contaminated soils exists, applicant shall contact the Department of Toxic Substances Control and the Department of Public Works to identify how any required investigation and/or remediation will be conducted, and which government agency will provide regulatory oversight	Project Applicant	Stop construction activities if soil contamination is suspected	DTSC DPW	During construction
Land Use/General Prior to approval of certificate of occupancy, applicant shall record a covenant to hold property as one parcel with the County Clerk	Project Applicant	Record a covenant to hold property as one parcel with the County Clerk	City of Industry DRP	Prior to approval of certificate of occupancy
Applicant shall submit a landscape plan to be reviewed and approved by DRP and the City of Industry engineer	Project Applicant	Submit a landscape plan	DRP City of Industry	Prior to issuance of the building permit

Key: AQMD = South Coast Air Quality Management District
 BMP = Best Management Practice
 Caltrans = California Department of Transportation
 DHS = Los Angeles County Department of Health Services
 DPW = Los Angeles County Department of Public Works
 DRP = Los Angeles County Department of Regional Planning
 DTSC = Department of Toxic Substance Control
 CRWQCB = California Regional Water Quality Control Board
 NPDES = National Pollution Discharge Elimination System